

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS)	
a/k/a Emmanuel E. Elder,)	
)	
Plaintiff,)	
)	
v.)	Civ. Action No. 04-1350-GMS
)	
BRIAN JOHNSON, et al.,)	
)	
Defendants.)	

MEMORANDUM

I. INTRODUCTION

The plaintiff, Jimmie Lewis (“Lewis”), currently incarcerated at the Central Violation of Probation Center, Smyrna, Delaware, filed this lawsuit pursuant to 42 U.S.C. § 1983 on October 13, 2004. He proceeds *pro se* and has been given leave to proceed *in forma pauperis*. As of September 25, 2009, the only defendants who remained in the case were Brian Johnson and Mr. Johnson 2, the other defendants having been dismissed or granted summary judgment. (D.I. 43, 328.)

II. DISCUSSION

On September 25, 2009, Lewis was ordered to show cause why the defendant Mr. Johnson 2 should not be dismissed for failure to serve process within 120 days of filing the complaint, pursuant to Fed. R. Civ. P. 4(m) and to file documentation with the court providing evidence of his claim and any injury by the defendant Brian Johnson. (D.I. 328.) He did not comply with the order.

On January 5, 2010, the court dismissed the case for Lewis’ failure to show cause why the

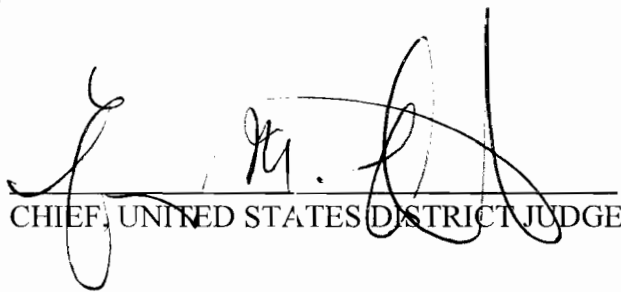
case should not be dismissed for failure to prosecute and to keep the court informed of his current address. (D.I. 332.) The next day, January 6, 2010, the clerk of court received notification of Lewis' current address, and the dismissal order was mailed to him at the Cuyahoga County Jail, Cleveland, Ohio, where he was incarcerated. He filed a motion to reopen the case and requested a ninety day extension of time to respond to the January 5, 2010 show cause order. (D.I. 334, 335.) The court granted the motion and gave Lewis given one final opportunity to comply with the court's September 25, 2009 order, with an extension to on or before March 20, 2010. (D.I. 341.) Lewis was warned that no further extensions would be granted and that his failure to timely comply with the order would result in the dismissal of the Johnson defendants. Lewis did not comply with the order.

III. CONCLUSION

Lewis failed to comply with this court's September 25, 2009, and was warned that his failure to comply would result in dismissal of these two defendants. For these reasons, the court will dismiss the defendants Mr. Johnson 2 and Brian Johnson.

An appropriate order will be entered.

June 22, 2010
Wilmington, Delaware


CHIEF, UNITED STATES DISTRICT JUDGE

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FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS

a/k/a Emmanuel E. Elder,

Plaintiff,

V.

Civ. Action No. 04-1350-GMS

BRIAN JOHNSON, et al.,

Defendants.

ORDER

At Wilmington this 22nd day of June, 2010, for the reasons set forth in the Memorandum issued this date;

1. Mr. Johnson 2 and Brian Johnson are **dismissed** as defendants.
2. The Clerk of Court is directed to **close** this case.

CHIEF, UNITED STATES DISTRICT JUDGE